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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/040,292	10/25/2001	Frederick M. Morgan	C01104/70089 (RFG/JT)	1752
23628	7590	03/31/2004		EXAMINER
				A, MINH D
			ART UNIT	PAPER NUMBER
			2821	

DATE MAILED: 03/31/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/040,292	MORGAN ET AL.
	Examiner	Art Unit
	Minh D A	2821

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 27 May 2003.

2a) This action is **FINAL**.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-62 is/are pending in the application.

4a) Of the above claim(s) 63-73 is/are withdrawn from consideration.

5) Claim(s) 11-34,39-41,61 and 62 is/are allowed.

6) Claim(s) 9 and 12 is/are rejected.

7) Claim(s) 37-38 and 42-60 is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 8 and 12.

4) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_.

***DETAILED ACTION***

1. Applicant's election without traverse of 1-62 in Paper No. 12 is acknowledged and claims 63-73 have been withdrawn from consideration.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 10 are rejected under 35 U.S.C. 102(b) as being unpatentable by Teron et al (US 5,410,150).

Regarding claims 1,10 and 35-36, Teron discloses controller comprising: at least one LED (104); and an interface (74) coupled to the at least one LED (104), the interface (74) being adapted to engage mechanically and electrically with a conventional pool light socket (195). See figures 1-10,col.4, lines 19-67 to col.12, lines 1-30.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over by Teron et al (US 5,410,150).

Regarding claims 2-9, Teron discloses the claimed invention except for a screw type light socket or a bayonet type light socket or a multi-pin light socket or a halogen light socket or a double-ended halogen light socket or MR-16 light socket or a wedge type light socket. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a screw type light socket or a bayonet type light socket or a multi-pin light socket or a halogen light socket or a double-ended halogen light socket or MR-16 light socket or a wedge type light socket, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

***Allowable Subject Matter***

6. Claims 37-38 and 42-60 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

The prior art does not teach that, the at least one LED includes at least two differently colored LEDs or the encapsulant is in contact with at least the at least one LED.

7. Claims 11-34, 39-41,61-62 are allowed.

The following is a statement of reasons for the indication of allowable subject matter:

The prior art does not teach or fairly suggest that, the one of the pool and the spa has a range of typical liquid levels of the liquid during use, and wherein the at least one light source is adapted to be disposed below the range of typical liquid levels in combination with all limitations recited in independent claims 11-12, 16, 34, 39, 61 and 62.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Silveri. (US RES 37,055) and Silveri. (US 5,221,444) are cited to show a light pool.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Minh A whose telephone number is (571-272-1819). The examiner can normally be reached on M-F (7:30 –4:30 PM).

If attempts to reach the examiner by telephone is unsuccessful, the examiner's supervisor, Don Wong, can be reached on (703) 308-4856. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9318 for regular communications and (703) 872-9319 for final communications.

Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center receptionist whose telephone number is (703) 308-0956.

Examiner

Minh A

Art unit 2821

02/07/04

  
Don Wong  
Supervisory Patent Examiner  
Technology Center 2800